

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BRENDA WILLIAMS,

Plaintiff,

v.

1:18-CV-0349 (BKS/CFH)

WILLIAM NORRIS, *et al.*,

Defendants.

Appearances:

Brenda Williams
Albany, New York
Plaintiff, pro se

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Presently before the Court is a Report-Recommendation by United States Magistrate Judge Christian F. Hummel issued on October 1, 2018, following his review of Plaintiff's Amended Complaint under 28 U.S.C. § 1915(e)(2)(B). (Dkt. No. 11). Magistrate Judge Hummel recommended that the following claims be dismissed with prejudice: any claims purported to be raised by or on behalf of Edmond Williams; Plaintiff's Fourteenth Amendment deliberate indifference claim; and any claim for "criminal trespass." (*Id.*). Magistrate Judge Hummel recommended that Plaintiff's claims against the City of Albany and "Albany County Police Dept." be dismissed without prejudice, and that the following claims be permitted to proceed: the Fourth Amendment excessive property damage claim; the Fourteenth Amendment excessive force claim; the Fourth Amendment illegal search claim; and the Fourth Amendment seizure claim relating to Plaintiff's personal property. (*Id.*).

Magistrate Judge Hummel advised Plaintiff that under 28 U.S.C. § 636(b)(1), she had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 11, at 14). Plaintiff did not file an objection to the Report-Recommendation. Plaintiff, however, filed an Amended Complaint on October 26, 2018. (Dkt. No. 12).

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 11) is **ADOPTED** in its entirety; and it is further

ORDERED that all claims purported to be raised by or on behalf of Edmond Williams are **DISMISSED** from this action **with prejudice**; and it is further

ORDERED that Plaintiff’s Fourteenth Amendment deliberate indifference claim is **DISMISSED with prejudice**; and it is further

ORDERED that insofar as Plaintiff’s Amended Complaint can be read to seek criminal prosecution of Defendants for “criminal trespass,” such claim is **DISMISSED with prejudice**; and it is further

ORDERED that all claims against the City of Albany and “Albany County Police Dept.” are **DISMISSED without prejudice**; and it is further


ORDERED that the following claims may proceed: the Fourth Amendment excessive property damage claim, the Fourteenth Amendment excessive force claim, the Fourth Amendment illegal search claim, and the Fourth Amendment seizure claim relating to Plaintiff's personal property; and it is further

ORDERED that Plaintiff's second Amended Complaint (Dkt. No. 12), which was "filed without the opposing party's written consent" and "without the court's leave," Fed. R. Civ. P. 15(a)(2), is referred to Magistrate Judge Hummel for consideration, and, if accepted, for review under 28 U.S.C. § 1915(e)(2)(B); and it is further

ORDERED that the Clerk serve a copy of this Order upon Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: November 8, 2018


Brenda K. Sannes
U.S. District Judge